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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/077,282	MCFADDIN ET AL.
	Examiner	**Art Unit**	
	JAMES SHELEHEDA	2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>21 September 2009</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-69</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-69</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 09/21/09 have been fully considered but they are not persuasive.

On pages 12-14, of applicant's response, applicant repeatedly cites sections of their application and claims to argue that "unencoded" data is being received and processed by the flow control system and that "unencoded" data is than transmitted to the encoder.

It is noted, however, that this characterization is completely incorrect. Applicant's specification recites numerous times that the data stream being received by the flow control system is indeed "encoded". For example: Paragraph 32 (and Fig. 4) identifies media data being received by the flow control system to be in AVI or WAV format. Paragraph 37 indicates that the video source may supply JPEG or MPEG content to the flow controller. Paragraph 27 indicates that the video sources may comprise a plurality of different format. Finally, it is noted that applicant has even claimed such in claims 43, 58 and 69.

The data, as claimed and as described in applicant's specification, clearly consists of "encoded" data. The "unencoded" limitation refers to the fact that the data is simply not specifically encoded *for streaming*.

Bar-el discloses a transmission system (video server, 11; Fig. 1) which receives video from a source (from storage or a live feed), processes the video and then streams it to viewers (page 11, line 20-page 12, line 15). Although Bar-el discloses transmitting the video over the Internet to be received by a media player at the subscriber location (Realplayer; page 8, lines 15-18 and page 7, lines 13-19).

Chen was then relied upon for disclosing a transmission system (110, Fig. 1) which receives video from a source (live or recorded sources, 112; column 6, lines 1-28) which is not yet encoded for streaming and will encode it for streaming over the Internet (column 6, lines 1-28 and column 1, lines 35-58). Applicant's arguments are therefore not convincing, as the combination clearly meets the claim limitations.

On page 16, although applicant argues that the Official Notices for claim 13, 43, 58 and 69 are unsubstantiated and that the Office Action fails to provide any evidentiary support, it is noted that Eldering (6,704,930) has already been provided to applicant as showing those features.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1, 4-7, 10, 12, 13, 20, 21, 26, 27, 30, 33, 34, 36, 39, 40-48, 55-59, 62 and

66-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bar-el (WO

99/26415 A1) (of record) in view of Chen et al. (Chen) (6,480,547) (of record).

As to claims 1, 30, 46 and 47, Bar-el discloses a system (Fig. 1-2), comprising:

a media delivery device having a media device driver associated therewith (page

11, lines 20-22);

a flow control system (26) being independent of and communicating with said

media delivery device (Fig. 2) and with a stored data source (22, Fig. 2), wherein said

flow control system is configured to receive data from said media delivery device and

from said stored data source (Fig. 2; page 12, lines 3-9), wherein said flow control

system receives commands from a data control manager (page 14, lines 14-page 15,

line 5) to control the flow of said media delivery device data and said stored data source

data (page 14, line 8-page 16, line 10), so as to directly pass a controlled flow of data as

a composite information stream from said flow control system (Fig. 2 and 4; page 16,

lines 4-10) for a media player (page 8, lines 15-18), the composite information stream

being made available for delivery over the internet to the media player (page 8, lines 15-

18 and page 7, lines 13-19).

While Bar-el discloses where the data may be stored content or real-time content

(Fig. 2; page 11, lines 20-21) and wherein the composite information stream is encoded

for streaming over the Internet (page 7, lines 13-19 and page 8, lines 15-18), he fails to

specifically disclose receiving unencoded data not yet encoded for streaming and

passing the unencoded data to a media encoder for encoding into an encoded

information stream for a media player.

In an analogous art, Chen discloses a media distribution system (Fig. 1) which

unencoded data not yet encoded for streaming (column 6, lines 10-21) is passed to a

media encoder for encoding the data into an encoded information stream for a

streaming media player (column 5, lines 1-28) for the typical benefit of allowing any type

of video content to be transmitted as streaming content (column 5, lines 1-28 and

column 1, lines 35-47).

It would have been obvious to one of ordinary skill in the art at the time of

invention by applicant to modify Bar-el's system to include receiving unencoded data

not yet encoded for streaming and passing the unencoded data to a media encoder for

encoding into an encoded information stream for a media player, as taught in

combination with Chen, for the typical benefit of allowing any type of video content to be

transmitted as streaming content.

As to claim 4, Bar-el and Chen disclose wherein said media delivery device

provides live data (page 11, lines 20-21).

As to claim 5, Bar-el and Chen disclose wherein said media delivery device

provides a television broadcast (see Chen at column 6, lines 20-28 and Bar-el at page

11, lines 20-21).

As to claim 7, Bar-el and Chen disclose wherein said stored data includes commercial advertisements (page 14, lines 14-21 and page 12, lines 3-9).

As to claim 10, Bar-el and Chen disclose wherein said flow control system provides updated information about said media delivery device data (page 12, line 20-page 14, line 7).

As to claim 12, Bar-el and Chen disclose wherein said flow control system is located in an electronic unit that is physically separate from said media delivery device (Fig. 1 and 2).

As to claim 13, while Bar-el and Chen disclose a flow control system module (Fig. 2) and further comprising a data control manager module for passing control instructions to said flow control system (page 14, line 8-page 16, line 16) residing within a computer server (page 7, lines 13-14), they fail to specifically disclose software modules.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize software modules running on a computer processor to perform the functionality of different hardware components so as to lower the cost and complexity of equipment by reducing the number of different required internal pieces.

It would have been obvious to one of ordinary skill in the art at the time of
invention by applicant to modify Bar-el and Chen's system to include software modules
for the typical benefit of lowering the cost and complexity of equipment by reducing the
number of different required internal pieces.

As to claim 20, Bar-el and Chen disclose wherein said flow control system
monitors said media delivery device data for a control signal (page 14, lines 14-24), and
wherein said flow control system signals a data control manager of receipt of said
control signal (page 14, lines 14-page 15, line 5), and wherein said data control
manager controls said flow control system in response to said control signal (page 14,
lines 14-page 15, line 5).

As to claim 21, Bar-el and Chen disclose wherein said control signal is an
elapsed time (page 14, line 14-page 15, line 5).

As to claim 26, Bar-el and Chen disclose wherein said media delivery device
data is a television broadcast (column 6, lines 10-28).

As to claim 27, Bar-el and Chen disclose wherein said stored data is an
advertisement (page 14, lines 14-21 and page 12, lines 3-9).

As to claim 59, Bar-el discloses a method (Fig. 1-2), comprising:

capturing a first set data set of data (22, Fig. 2; page 11, lines 8-13),

receiving a request for transmission of at least a second data set of data (page

11, lines 20-21),

designating an order of transmission of said first and at least said second data

sets of data (page 14, line 14-page 15, line 10); and

controlling the flow of data by a flow control system (26) of said first and at least

said second data set in accordance with said designated order (page 14, line 8-page

16, line 10), so as to directly pass a controlled flow of data as a composite information

stream from said flow control system (Fig. 2 and 4; page 16, lines 4-10) for a media

player (page 8, lines 15-18), the composite information stream being made available for

delivery over the internet to the media player (page 8, lines 15-18 and page 7, lines 13-

19).

While Bar-el discloses where the data may be stored content or real-time content

(Fig. 2; page 11, lines 20-21) and wherein the composite information stream is encoded

for streaming over the Internet (page 7, lines 13-19 and page 8, lines 15-18), he fails to

specifically disclose receiving unencoded data not yet encoded for streaming and

passing the unencoded data to a media encoder for encoding into an encoded

information stream for a media player.

In an analogous art, Chen discloses a media distribution system (Fig. 1) which

unencoded data not yet encoded for streaming (column 6, lines 10-21) is passed to a

media encoder for encoding the data into an encoded information stream for a

streaming media player (column 5, lines 1-28) for the typical benefit of allowing any type

of video content to be transmitted as streaming content (column 5, lines 1-28 and

column 1, lines 35-47).

It would have been obvious to one of ordinary skill in the art at the time of

invention by applicant to modify Bar-el's system to include receiving unencoded data

not yet encoded for streaming and passing the unencoded data to a media encoder for

encoding into an encoded information stream for a media player, as taught in

combination with Chen, for the typical benefit of allowing any type of video content to be

transmitted as streaming content.

As to claim 33, Bar-el and Chen disclose wherein at least one of said plurality of

data sources is a live data source (page 11, lines 20-21) and at least one of said data

sources is a stored data source (page 11, lines 8-21), and wherein said flow control

system is configured to communicate with a data control manager to selectively pass, in

response to commands from said data control manager, data from at least one of said

live data sources and from one or more of said at least one stored data sources (page

14, line 8-page 16, line 21).

As to claim 34, Bar-el and Chen disclose an encoder configured to receive and

transform said composite information stream into an encoded composite information

stream (see Bar-el at page 16, lines 4-10 and Chen at column 5, lines 1-28).

As to claims 6, 36 and 44, Bar-el and Chen disclose wherein said stored data is downloaded from a web server and stored on a computer linked to said encoder (page 11, lines 8-19 and page 14, lines 14-21).

As to claim 38, Bar-el and Chen disclose wherein at least one of said plurality of data sources provides live data (page 11, lines 20-21).

As to claim 39, Bar-el and Chen disclose wherein at least one of said plurality of data sources includes a video feed (page 11, lines 20-21).

As to claim 40, Bar-el and Chen disclose wherein said video feed is a television broadcast (column 6, lines 10-28).

As to claim 41, Bar-el and Chen disclose wherein at least one of said plurality of data sources provides stored data (page 11, lines 8-21).

As to claims 42 and 45, Bar-el and Chen disclose wherein said stored data includes commercial advertisements (page 12, lines 3-9).

As to claim 48, Bar-el and Chen disclose

designating an order of transmission of data from two or more of said plurality of data sources (page 14, line 14-page 16, line 10);

inserting said data into said composite information stream in said designated

order (page 14, line 14-page 16, line 10); and

passing said composite information stream to said encoder (page 14, line 14-

page 16, line 10 and column 6, lines 10-28).

As to claims 54 and 65, Bar-el and Chen disclose wherein at least one of said

plurality of data sources provides live data (page 11, lines 20-21).

As to claims 55 and 66, Bar-el and Chen disclose wherein said live data is a

video feed (page 11, lines 20-21).

As to claims 56 and 67, Bar-el and Chen disclose wherein said video feed is a

television broadcast (page 11, lines 20-21 and column 6, lines 10-28).

As to claims 57 and 68, Bar-el and Chen disclose wherein at least one of said

plurality of data sources provides stored data (page 11, lines 8-21).

As to claim 62, Bar-el and Chen disclose wherein said composite information

stream is to be experienced using a video monitor (Fig. 1).

As to claim 43, 58 and 69, while Bar-el and Chen disclose stored data, they fail to

specifically disclose wherein the stored data is in an AVI file, a GIFF file, a file

compressed according to JPEG standards or a file compressed according to MPEG standards.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to a common industry data standard, such as AVI, GIFF, JPEG or MPEG, based upon the desired media characteristics and format of the system and to ensure compatibility with other equipment processing the data.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Bar-el and Chen's system to include wherein the stored data is in an AVI file, a GIFF file, a file compressed according to JPEG standards or a file compressed according to MPEG standards for the typical benefit of utilizing one of a plurality of industry standard media formats.

4.   Claims 11, 14-18, 28, 35, 37, 49-51 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bar-el and Chen and further in view of Eldering et al. (Eldering) (US 2002/0026638 A1) (of record).

As to claim 11, while Bar-el and Chen disclose stored data, they fail to specifically disclose wherein the data is in an audio video interleaved file.

In an analogous art, Eldering '638 discloses a system for inserting commercials (paragraph 21) wherein the advertisements are in an audio video interleaved (AVI) file (paragraph 37) for the typical benefit of utilizing an industry standard Internet readable format for distribution and display of the video (paragraph 37).

It would have been obvious to one of ordinary skill in the art at the time of
invention by applicant to modify Bar-el and Chen to include wherein the data is in an
audio video interleaved file, as taught by Eldering '638, for the typical benefit of taking
advantage of and conforming to existing industry standards.

As to claim 14, while Bar-el and Chen disclose a flow control system and
information related to a desired order of data delivery from said stored data source, they
fail to specifically disclose a queue for passing information related to the desired order.

In an analogous art, Eldering '638 discloses a system for inserting commercials
(paragraph 21) wherein an adjustable queue is created to indicate the desired order for
advertisement display (Fig. 3; paragraph 65) for the benefit of allowing more control
over the scheduling and the viewing of upcoming advertisements (paragraph 74 and
50).

It would have been obvious to one of ordinary skill in the art at the time of
invention by applicant to modify Bar-el and Chen to include a queue for passing
information related to the desired order, as taught by Eldering '638, so as to provide
more control over the scheduling of upcoming advertisements.

As to claim 15, Bar-el and Chen and Eldering '638 disclose wherein said data
control manager passes said control instructions via the Internet (see Eldering '638 at
paragraph 62 and 66).

As to claim 16, Bar-el and Chen and Eldering '638 disclose wherein said queue is remotely alterable (see Eldering '638 at paragraph 62 and 66).

As to claim 17, Bar-el and Chen and Eldering '638 disclose wherein said queue is altered by transferring information over a computer network (see Eldering '638 at paragraph 62 and 66).

As to claim 18, Bar-el and Chen and Eldering '638 disclose wherein said queue is altered by downloading information from the Internet (see Eldering '638 at paragraph 62 and 66).

As to claim 28, Bar-el and Chen and Eldering '638 disclose wherein said queue is an advertisement queue (see Eldering '638 at paragraph 62 and 65).

As to claims 35 and 37, while Bar-el and Chen disclose a flow control system and information related to a desired order of data delivery from said stored data source, they fail to specifically disclose an electronic queue.

In an analogous art, Eldering '638 discloses a system for inserting commercials (paragraph 21) wherein an electronic queue is created to indicate the desired order for advertisement display (Fig. 3; paragraph 65) for the benefit of allowing more control over the scheduling and the viewing of upcoming advertisements (paragraph 74 and 50).

It would have been obvious to one of ordinary skill in the art at the time of
invention by applicant to Bar-el and Chen to include an electronic queue, as taught by
Eldering '638, so as to provide more control over the scheduling of upcoming
advertisements.

As to claim 49, while Bar-el and Chen disclose transferring data sets in
accordance with a designated transmission order to said flow control system, they fail to
specifically disclose placing a plurality of data identifiers in an order and transferring
names of data sets that are associated with said data identifiers in said data identifier
order.

In an analogous art, Eldering '638 discloses a system for inserting commercials
(paragraph 21) wherein an adjustable queue is created to indicate the desired order for
advertisement display (Fig. 3; paragraph 65) by placing a plurality of data identifiers in
order within the queue (paragraph 46 and 65) and transferring names of data sets that
are associated with said data identifiers in said data identifier order (paragraph 63 and
65) for the benefit of allowing more control over the scheduling and the viewing of
upcoming advertisements (paragraph 74 and 50).

It would have been obvious to one of ordinary skill in the art at the time of
invention by applicant to modify Bar-el and Chen to include placing a plurality of data
identifiers in an order and transferring names of data sets that are associated with said
data identifiers in said data identifier order, as taught by Eldering '638, so as to provide
more control over the scheduling of upcoming advertisements.

As to claim 50, Bar-el and Chen and Eldering '638 disclose

loading a named data set into an encoder (page 11, lines 8-13 and page 16, lines

11-16) and

transmitting said named data set to a media player (page 2, lines 14-22 and page

8, lines 15-18).

As to claim 51 Bar-el and Chen and Eldering '638 disclose passing said data

identifiers to said flow controller (page 14, line 14-page 16, line 16) in said data identifier

order (see Eldering '638 at paragraph 65).

As to claim 64, while Bar-el and Chen disclose a flow control system and

designating a predetermined data transmission order (column 9, lines 36-52), they fail to

specifically disclose an electronic queue.

In an analogous art, Eldering '638 discloses a system for inserting commercials

(paragraph 21) wherein an electronic queue is created to indicate the desired order for

advertisement display (Fig. 3; paragraph 65) for the benefit of allowing more control

over the scheduling and the viewing of upcoming advertisements (paragraph 74 and

50).

It would have been obvious to one of ordinary skill in the art at the time of

invention by applicant to modify Bar-el and Chen to include an electronic queue, as

taught by Eldering '638, so as to provide more control over the scheduling of upcoming

advertisements.

5.   Claims 2, 3, 24, 25, 29, 31, 32, 60 and 61 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Bar-el and Chen and further in view of Aras et al. (Aras)

(5,872,588) (of record).

        As to claim 24, while Bar-el and Chen disclose receiving a controlled data flow of

data passed to said encoder from said stored data source by said flow controller, they

fail to specifically disclose a software log of events, said software log being created in

response to said data flow, said software log containing a record of said data flow.

        In an analogous art, Aras discloses a video distribution system (Fig. 1A) which

will create a software log of events (column 7, lines 14-29) in response to received

video/data streams (column 7, lines 6-29 and column 13, line 25-column 14, line 24)

and which contains a record of the received video/data streams (column 7, lines 6-29

and column 13, line 25-column 14, line 24) for the typical benefit of better monitoring

and identifying programming and advertisements viewed by subscribers.

        It would have been obvious to one of ordinary skill in the art at the time of

invention by applicant to modify Bar-el and Chen to include a software log of events,

said software log being created in response to said data flow, said software log

containing a record of said data flow, as taught by Aras, for the typical benefit of better

monitoring and identifying programming and advertisements viewed by subscribers.

As to claim 25, Bar-el and Chen and Aras disclose wherein said software log is transferable over the Internet (see Aras at column 26, lines 44-62 and Bar-el at page 7, lines 17-19).

As to claim 29, Bar-el and Chen and Aras disclose wherein said software log is an advertising log (see Aras at column 11, table IV, column 8, lines 33-67).

As to claim 2 and 31, while Bar-el and Chen disclose a media player communicating with said encoder to receive said composite information stream from said encoder, they fail to specifically disclose an identifier recorder which creates a record of the passage of a designated type of data to a media player and an identifier collector which enters a plurality of said created records into a common data file.

In an analogous art, Aras discloses a video distribution system (Fig. 1A) which will create a software log of events (column 7, lines 14-29) in response to received video/data streams (column 7, lines 6-29 and column 13, line 25-column 14, line 24) by classifying the received data with an identifier (column 7, lines 31-67 and column 13, lines 34-51), records the passage of a designated type of data to the display (column 13, lines 34-61) and entering the data into a collection table (column 3, line 59-column 14, line 24) for the typical benefit of better monitoring and identifying programming and advertisements viewed by subscribers.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Bar-el and Chen to include an identifier recorder which

creates a record of the passage of a designated type of data to a media player and an

identifier collector which enters a plurality of said created records into a common data

file, as taught by Aras, for the typical benefit of better monitoring and identifying

programming and advertisements viewed by subscribers.

As to claim 3 and 32, Bar-el and Chen and Aras disclose wherein said

designated type of identifier identifies a commercial advertisement (see Aras at column

8, lines 33-67) and said common data file is an advertising log (see Aras at column 11,

table IV).

As to claim 60, while Bar-el and Chen disclose delivering said controlled flow to a

media player, they fail to specifically disclose recording in a common data file the

passage of a designated type of data to a media player.

In an analogous art, Aras discloses a video distribution system (Fig. 1A) which

will create a software log of events (column 7, lines 14-29) in response to received

video/data streams (column 7, lines 6-29 and column 13, line 25-column 14, line 24) by

classifying the received data with an identifier (column 7, lines 31-67 and column 13,

lines 34-51), records the passage of a designated type of data to the display (column

13, lines 34-61) and entering the data into a collection table (column 3, line 59-column

14, line 24) for the typical benefit of better monitoring and identifying programming and

advertisements viewed by subscribers.

It would have been obvious to one of ordinary skill in the art at the time of

invention by applicant to modify Bar-el and Chen to include recording in a common data

file the passage of a designated type of data to a media player, as taught in combination

with Aras, for the typical benefit of better monitoring and identifying programming and

advertisements viewed by subscribers.

As to claim 61, Bar-el and Chen and Aras disclose wherein said designated type

of identifier identifies a commercial advertisement (see Aras at column 8, lines 33-67)

and said common data file is an advertising log (see Aras at column 11, table IV).

6.   Claims 52 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Bar-el and Chen and Eldering '638 and further in view of Aras.

As to claim 52, while Bar-el and Chen and Eldering '638 disclose a media player

communicating with said encoder to receive said composite information stream from

said encoder, they fail to specifically disclose recording in a common data file the

passage of an identifier associated with a designated type of named data set to said

encoder.

In an analogous art, Aras discloses a video distribution system (Fig. 1A) which

will create a software log of events (column 7, lines 14-29) in response to received

video/data streams (column 7, lines 6-29 and column 13, line 25-column 14, line 24) by

classifying the received data with an identifier (column 7, lines 31-67 and column 13,

lines 34-51), records the passage of a designated type of data to the display (column

13, lines 34-61) and entering the data into a collection table (column 3, line 59-column 14, line 24) for the typical benefit of better monitoring and identifying programming and advertisements viewed by subscribers.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Bar-el and Chen and Eldering '638 to include recording in a common data file the passage of an identifier associated with a designated type of named data set to said encoder, as taught in combination with Aras, for the typical benefit of better monitoring and identifying programming and advertisements viewed by subscribers.

As to claim 53, Bar-el and Chen and Eldering '638 and Aras disclose wherein said designated type of identifier is a commercial advertisement (see Aras at column 8, lines 33-67) and said common data file is an advertising log (see Aras at column 11, table IV).

7.   Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bar-el and Chen in view of Schmelzer et al. (Schmelzer) (5,424,770) (of record).

As to claim 22, while Bar-el and Chen disclose a control signal identifying where to insert content, they fail to specifically disclose wherein the control signal is embedded in said media delivery device data.

In an analogous art, Schmelzer discloses commercial insertion for a video distribution system (column 3, lines 42-62) wherein the incoming signal is monitored for

an audio cue tone (column 12, lines 20-34) to indicate the beginning of a commercial

break (column 12, lines 20-34) for the typical benefit of utilizing an industry standard

method of indicating commercial break (column 12, lines 20-23).

It would have been obvious to one of ordinary skill in the art at the time of

invention by applicant to modify Bar-el and Chen to include wherein the control signal is

embedded in said media delivery device data, as taught by Schmelzer, for the typical

benefit of utilizing an industry standard method of indicating commercial break.

As to claim 23, Bar-el, Chen and Schmelzer disclose wherein the control signal is

an audible tone (column 12, lines 20-34).

8.   Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Bar-el and Chen view of Hooks et al. (Hooks) (6,169,542) (of record).

As to claim 8, while Bar-el and Chen disclose wherein said flow control system

will output advertisements for display, they fail to specifically disclose allowing a user to

obtain information about content displayed in said commercial advertisements.

In an analogous art, Hooks discloses a content distribution system (Fig. 1)

wherein user's are presented with the option to obtain additional information about

content displayed in said commercial advertisements (Fig. 9; column 11, lines 44-65) for

the typical benefit of conveniently providing supplemental information desired by

consumers (column 1, line 36-column 2, line 35).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Bar-el and Chen to include allowing a user to obtain information about content displayed in said commercial advertisements, as taught in combination with Hooks, for the typical benefit of conveniently providing supplemental information desired by consumers.

As to claim 9, Bar-el and Chen and Hooks disclose wherein said flow control system allows a user to order products or services that are associated with said content (see Hooks at Fig. 9; column 11, lines 44-65).

9.   Claim 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bar-el and Chen in view of Ludtke (6,154,206) (of record).

As to claim 63, while Bar-el and Chen disclose wherein said composite information stream is to be experienced using an output device (column 10, lines 27-34), they fail to specifically disclose a personal digital assistant (PDA).

In an analogous art, Ludtke discloses a content distribution system (column 4, lines 24-56) wherein the output device for display may include a personal digital assistant (column 5, line 62-column 6, line 12) for the benefit of providing the user with numerous options for media display (column 5, line 62-column 6, line 12) and the convenience of a portable display device.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Bar-el and Chen to include wherein the output device is

a personal digital assistant (PDA), as taught by Ludtke, for the benefit of providing the

user with numerous options for media display and the convenience of a portable display

device.

10.   Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bar-el

and Chen and Eldering '638 in view of Kozdon (6,385,192) (of record).

As to claim 19, while Bar-el and Chen and Eldering '638 disclose altering the

queue based upon received signals, they fail to specifically disclose pressing buttons on

a telephone key pad.

In an analogous art, Kozdon discloses a communication system (Fig. 3) wherein

keypad buttons on a telephone are utilized to generate signals for transmission over the

Internet (column 4, lines 24-33) for controlling a remote computer system (column 1,

lines 22-35) for the typical benefit of allowing remote computer access through widely

distributed and convenient telephone systems.

It would have been obvious to one of ordinary skill in the art at the time of

invention by applicant to modify Bar-el and Chen and Eldering '638 to include pressing

buttons on a telephone key pad, as taught by Kozdon, for the typical benefit of allowing

widely known and utilized telephones to conveniently access a remote computer

system.

Conclusion

11.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

12.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to JAMES SHELEHEDA whose telephone number is

(571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM -

5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Sheleheda/
Primary Examiner, Art Unit 2424

JS